

ORDINANCE NO. 5 -2018

ORDINANCE OF THE BOROUGH OF TUCKERTON, COUNTY OF OCEAN, STATE OF NEW JERSEY, REPEALING ARTICLE II OF CHAPTER 45 AND CHAPTER 187 OF THE BOROUGH CODE OF THE BOROUGH OF TUCKERTON ENTITLED "LANDMARKS PRESERVATION" AND ESTABLISHING NEW CHAPTER 187 ENTITLED "HISTORIC PRESERVATION ADVISORY COMMISSION"

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Tuckerton, County of Ocean, State of New Jersey, as follows:

SECTION 1. Article II of Chapter 45 and Chapter 187 of the Borough Code of the Borough of Tuckerton, both entitled "Landmarks Preservation" are hereby repealed in their entirety and replaced with new Chapter 187 entitled "Historic Preservation Advisory Commission" which shall read as follows:

CHAPTER 187

HISTORIC PRESERVATION ADVISORY COMMISSION

§ 187-1. Statutory authority, purpose and objectives.

- A.** The Legislature of the State of New Jersey has in N.J.S.A. 40:55D-107 et seq. delegated the responsibility to local units of government to adopt regulations designed to promote the protection of certain architecturally, historically, and archaeologically significant structures, sites, or districts for the general welfare of its citizenry.
- B.** The Borough of Tuckerton recognizes that it has areas, places and structures of historic, archaeological and architectural significance. It is in the interest of the general welfare to preserve these areas, places and structures to ensure that new development is compatible and relevant with these areas, places and structures. This chapter is intended to achieve these purposes and objectives and to promote the preservation of the environment, promote a desirable visual environment through creative development techniques and good civic design and arrangements, prevent the degradation of the environment through improper use of land, and promote the most appropriate use of land in the Borough.

§ 187-2. Definitions.

The terms set forth hereinafter shall have the following meanings:

ADMINISTRATIVE OFFICER -The Zoning Officer of the municipality unless a different municipal official or officials are designated by resolution of the governing body to handle the administration of this chapter and attend the Land Use Board meetings as deemed necessary.

ADVISORY COMMISSION - Historic Preservation Advisory Commission of the Borough of Tuckerton

APPLICANT- Any private person, persons, or any representative or any private entity, private organization or association, with legal authority to make an alteration, addition, improvement, renovation, repair or demolish a structure.

APPLICATION FOR DEVELOPMENT - An application to the Land Use Board of the Borough of Tuckerton for approval of a major or minor subdivision plot or site plan, planned development, conditional use or zoning variance.

BUILDING - Any structure, either temporary or permanent, having a roof (including an annex or addition), which requires for its use a fixed location on the land and which is designed, intended or used for the sheltering or protection of persons, animals, or chattel.

BUILDINGS AND PLACES WHICH ARE VISUALLY RELATED - All buildings, structures, sites and landscaping located on lots within 200 feet of the exterior perimeter of any lot upon which the assessment of visual compatibility is being made.

CERTIFICATE OF APPROPRIATENESS - A document indicating permission to commence work or activity on a structure located within the historic district or on a designated historic site.

COMMISSION - The Historic Preservation Advisory Commission established pursuant to the provisions of this chapter.

CONSTRUCTION OFFICIAL - The Officer in charge of the granting of building or construction permits in the Borough of Tuckerton.

DEMOLITION - Partial or total razing or destruction of any historic site or of any improvement within a historic district.

DESIGNATED HISTORIC LANDMARK OR HISTORIC DISTRICT - An individual building, structure, site, object, improvement or district which has been determined to have historical significance pursuant to the provisions of this chapter.

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

HISTORIC DISTRICT - Shall be co-terminus with and include that area shown on the Zoning Map of the Borough of Tuckerton and identified as other districts as are designated in accordance with the procedures set forth in § 187-4 hereof.

HISTORIC DISTRICT RESOURCES - Those resources classified as either key, contributing or noncontributing, which are defined as follows:

- A. "Key" shall mean any buildings, structures, sites, objects or improvements which, due to their significance, would individually qualify for historic landmark status;
- B. "Contributing" shall mean any buildings, structures, sites, objects or improvements which are integral components either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is historically significant;
- C. "Noncontributing" shall mean any buildings, structures, sites, objects or improvements which do not have significant historical value because they neither date from a time period nor represent an architectural type, period or method which is historically significant.

HISTORIC PRESERVATION ADVISORY COMMISSION - The body which, for the purposes of this chapter, acts as the historic preservation commission as cited in the Municipal Land Use Law, N.J.S.A. 40:55D-107 et seq.

HISTORIC LANDMARKS (or LANDMARK) - Any buildings, structures, sites, or districts which possess integrity of location, design, setting, materials, workmanship, and association, which meet the criteria set forth in § 187-4A.

IMPROVEMENT - Any structure or any part thereof installed upon real property.

INVENTORY - A list of historic properties determined to meet criteria of significance specified herein.

INTEGRITY - The authenticity of a building, structure, site, object, improvement or district evidenced by the survival of the physical characteristics that existed during its historic or prehistoric period.

INTERESTED PARTY - Any person whose right to use, acquire or enjoy property is affected by any action taken under this chapter.

MAJOR EXTERIOR RENOVATIONS - A change requiring a building permit in the exterior facade of a building which results in a significant change from the existing design appearance through the use of or installation of siding, trim, shutters, awnings, air-conditioning units, doorways, windows, exterior of openings of any kind, decks, porches, steps, stairs, handrails or railings, roofline changes, balconies, roofing, heating units and the like. Significant change from existing design shall include the use of vinyl or other modern building materials

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

differing from the existing or traditional use of cedar and other wood in the construction of any building.

MASTER PLAN - The Master Plan of the Borough of Tuckerton, as amended from time to time, compiled pursuant to the Municipal Land Use Law.

MUNICIPAL LAND USE LAW- The Municipal Land Use Law of the State of New Jersey, P.L. 1975, c 291 (N.J.S.A. 40:55D-1 et seq.), as amended from time to time.

NATIONAL REGISTER CRITERIA - The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places, as set forth in 36 CFR 60.4 et seq.

ORDINARY MAINTENANCE - The act of repairing any deterioration, wear, or damage to a structure, or any part thereof, in order to return the same as nearly practicable to its condition prior to the occurrence of such deterioration, wear, or damage. Ordinary maintenance shall further include replacement of exterior elements or accessory hardware, including signs, using the same materials or like and having the same appearance.

PERMIT - Any required approval issued by the Construction Official or Zoning Officer pursuant to applicable building or construction codes, or the Zoning Ordinance, for work or improvement(s) to property, or to a building or structure located thereon.

PERSON - Any individual, natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, firms, companies, corporations, entities or unincorporated groups; or any officers, agents, employees, servants, factors or any kind of personal representatives of any thereof in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law. When permitted by context, "person" shall also include the United States, the State of New Jersey and/or other states, or any political subdivision thereof, and any foreign country or government.

PRESERVATION - The act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic landmark. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

PROTECTION - The act or process of applying measures designated to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury.

REMOVAL - The act of partially or completely causing a structure or portion of a structure to change to another location, position, station or residence.

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

SECRETARY OF THE INTERIOR'S STANDARDS - The publication issued by the U.S. Department of the Interior, National Park Service, entitled, "The Secretary of the Interior's Standards for the Treatment of Historic Properties," 36 C.F.R. 68, issued in 1992 and revised and supplemented from time to time.

STRUCTURE - A combination of materials to form a construction for occupancy, use or ornamentation, having a fixed location on, above or below the surface of land or attached to something having a fixed location on, above or below the surface of land. For the purposes of this chapter, the word "structure" shall also include fences, walls, independent radio and television antennas, pergolas, and swimming pools.

SURVEY - The inventory of buildings, structures, sites, objects, improvements and districts located within the Borough of Tuckerton which is conducted by the Advisory Commission for the ascertainment of their historical significance pursuant to the provisions of this chapter.

SURVEY DATA - The raw data produced by the survey; that is, all the information gathered on each property and area investigated.

VISUAL COMPATIBILITY - Shall mean that any change or modification of any sort, kind or description to any building, structure, site or lot shall present a visually harmonious relationship maintaining the architectural design between the existing building, structure, lot or site and with the buildings, structures, lots or sites on all buildings or structures located on lots within 200 feet of the lot on which the change or modification is proposed.

§ 187-3 Establishment of a Historic Preservation Advisory Commission.

There is hereby created in and for the Borough of Tuckerton a Commission to be known as the Historic Preservation Advisory Commission of the Borough of Tuckerton.

A. Composition of the Historic Preservation Advisory Commission. The Historic Preservation Advisory Commission shall be comprised of five members, with two alternates:

(1) Of the seven regular Commission members:

- (a) Three or more shall be Class "A" or Class "B" members as said classes are defined in N.J.S.A. 40:55D-107;
- (b) The balance of the members shall be Class "C" members as said class is defined in N.J.S.A. 40:55D-107.
- (c) To the extent available from within the Borough of Tuckerton, the Mayor shall appoint Class "A" or Class "B" members who are residents. Should such individuals not be available from within the Borough, the Mayor shall have the authority to appoint such individuals who reside outside of the Borough.

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

(2) Of the two alternate Commission members, both shall be Class "C" members, as Class "C" is defined above. The two (2) alternate Commission members shall be respectively designated "Alternate No. 1" and "Alternate No. 2."

(3) Class "C" members shall be citizens of the Borough of Tuckerton, i.e., individuals who are either residents of the Borough or property owners in the Borough.

B. Appointment of Historic Preservation Advisory Commission Members.

(1) Members of the Historic Preservation Advisory Commission shall be appointed as provided for in N.J.S.A. 40:55D-107.

(2) Vacancies shall be filled as provided for in N.J.S.A. 40:55D-107.

C. Election of Chairperson and Vice Chairperson. The Historic Advisory Preservation Commission shall elect from its membership a Chairperson and a Vice Chairperson.

D. Liaison person. A member of the Land Use Board of the Borough of Tuckerton shall be designated by the Council as a liaison between the Historic Preservation Advisory Commission, the Council and the Land Use Board. The role of such liaison person shall be informational only and such person shall possess no voting rights with regard to any action taken by the Council.

E. Establishment of rules and regulations. The Historic Preservation Advisory Commission shall create rules and procedures for the transaction of its business, which shall be available to the public, subject to the following regulations:

(1) A quorum for the transaction of business shall consist of four of the Historic Preservation Advisory Commission's members. This quorum may include alternate members filling the vacancies of regular members. A majority of the members present and voting may grant or deny a certificate of appropriateness.

(2) The Historic Preservation Advisory Commission shall appoint a Secretary, who need not be a member of the Historic Preservation Advisory Commission. The Secretary shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be public record.

(3) Such rules shall include a specific section prohibiting conflicts of interest.

F. Compensation of Commission members. The members of the Historic Preservation Advisory Commission shall serve without compensation.

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

G. Retention of professional assistance. The Historic Preservation Advisory Commission may retain appropriate professional aid and assistance as provided for in N.J.S.A. 40:55D-108.

H. Powers and duties. The Historic Preservation Advisory Commission shall have the powers, duties and responsibilities as set forth in N.J.S.A. 40:55D-109, N.J.S.A. 40:55D-110 and, in addition, the following powers and duties:

- (1) Undertake a comprehensive survey of the Borough of Tuckerton to identify properties that should be designated as historic landmarks and historic districts worthy of protection and preservation, which survey shall be updated every other year.
- (2) Following the preparation of the survey, prepare and adopt pursuant to § 187-4 et seq. of the ordinance, a Landmark and Historic Districts Designation List and Official Landmarks Map which shall then be referred to the Land Use Board for inclusion in the Borough Master Plan pursuant to N.J.S.A. 40:55D-28(b) and to the Council of the Borough of Tuckerton for inclusion in the Historic Preservation Ordinance.
- (3) Hear and decide applications for certificates of appropriateness pursuant to § 187-6 of this chapter.
- (4) Amend, from time to time, as circumstances warrant, the Landmarks and Historic Districts Designation List and Official Landmarks Map in the manner set forth in § 187-4.
- (5) Advise the Land Use Board on applications for development pursuant to N.J.S.A. 40:55D-110.
- (6) Provide written reports pursuant to N.J.S.A. 40:55D-111 on the application of the Zoning Ordinance provisions concerning historic preservation.
- (7) Report at least annually to the Land Use Board and the Council of the Borough of Tuckerton on the state of historic preservation in the Borough and to recommend measures to improve same.
- (8) Collect and disseminate material on the importance of historic preservation and specific techniques for achieving same.
- (9) Advise all Borough agencies regarding goals and techniques of historic preservation.
- (10) Review all proposed National Register nominations for properties that come within the jurisdiction of the Commission, as established by the criteria of the 1980 amendments of the National Historic Preservation Act of 1966.

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

- (11) Carry out such other advisory, educational and informational functions as will promote historic preservation in the Borough of Tuckerton.
- (12) Assist applicants in obtaining any financial assistance, whether in the form of loans or grants, or tax benefits, from any federal, state or local entity.
- (13) Exercise any and all other powers authorized by law.

I. Meetings. The Historic Preservation Advisory Commission shall meet on a regular monthly basis. All meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).

§ 187-4 Designation of landmarks and historic districts.

A. Criteria for designation. The criteria for evaluating and designating historic landmarks and historic districts shall be guided by the National Register Criteria. The Commission may recommend designation of historic landmarks or historic districts that are in accordance with the National Register Criteria which are herein set forth below:

- (1) Character, interest, or value as part of the development, heritage or cultural characteristics of the Borough, state or nation;
- (2) Association with events that have made a significant contribution to the broad patterns of our history;
- (3) Association with the lives of persons significant in our past;
- (4) Embodiment of the distinctive characteristics of a type, period or method of construction, architecture, or engineering;
- (5) Identification with the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the Borough, state or nation;
- (6) Embodiment of elements of design, detail, material or craftsmanship that render an improvement architecturally significant or structurally innovative;
- (7) Unique location or singular physical characteristics that make a district or landmark an established or familiar visual feature;
- (8) Ability or potential ability to yield information important in prehistory or history;
- (9) A religious property deriving primary significance from architectural or artistic distinction or historical importance;

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD

P.O. BOX 1057

FORKED RIVER, N.J. 08731

- (10) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event;
- (11) A birthplace of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life;
- (12) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
- (13) A property achieving significance within the past 50 years if it is of exceptional importance.

B. Procedures for designation.

- (1) Persons wishing to make a nomination shall contact the Commission Secretary of the Historic Preservation Advisory Commission regarding consideration of a proposed historic landmark or historic district. The Advisory Commission may also initiate the designation of an historic landmark or historic district. The Advisory Commission will schedule a hearing at its next regular meeting to review the proposed historic landmark or historic district.
- (2) A nomination to propose an historic landmark shall include the following information which addresses the criteria for designation as set forth herein:
 - (a) A photograph, preferably black and white, of the proposed landmark;
 - (b) A copy of the municipal tax map showing the property on which the proposed landmark is located;
 - (c) A physical description of the proposed landmark; and
 - (d) A statement of significance.
- (3) A nomination to propose an historic district shall include the following information which addresses the criteria for designation as set forth herein:
 - (a) A building-by-building inventory of all properties within the district;
 - (b) A photograph, preferably black and white, of all properties within the district;

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

- (c) A copy of the municipal tax map of the district showing boundaries;
 - (d) A physical description of the proposed district; and
 - (e) A statement of significance.
- (4) Following receipt of a nomination to propose an historic landmark or historic district, the Advisory Commission shall schedule a public hearing on the proposed designation.
- (5) At least 14 days prior to the public hearing, the Advisory Commission shall, by personal service or certified mail, perform the following:
- (a) Notify the owner(s) of record of a property that has been proposed for historic landmark designation, or the owner(s) of record of all properties located within a district that has been proposed for historic district designation, that the property or district, as applicable, is being considered for such designation and the reasons therefor;
 - (b) Advise the owner(s) of record of the significance and consequences of such designation and of the right of the owner(s) of record to contest such designation under the provisions of this chapter;
 - (c) Notify the owner(s) of record of the date, time and location of the hearing concerning the proposed designation of the property or district; and
 - (d) Serve any further notices as may be required under the provisions of the Municipal Land Use Law.
- (6) At least 14 days prior to the public hearing, the Advisory Commission shall also cause public notice of the hearing to be published in the official newspaper of the Borough.
- (7) At least 14 days prior to the public hearing, a copy of the nomination report shall also be made available for public inspection in the municipal offices of the Borough.
- (8) At the public hearing scheduled in accordance with this chapter, the Advisory Commission shall review the nomination report and accompanying documents. Interested persons shall be given the opportunity to be heard and to comment on the proposed nomination for designation.
- (9) If the proposed nomination is approved by the Advisory Commission, it shall forward a report concerning the proposed historic landmark or historic district to the Council of the Borough of Tuckerton. The governing body of the Borough of Tuckerton shall consider the report and recommendations of the Advisory Commission and if the governing body chooses to act favorably thereon, the

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD

P.O. BOX 1057

FORKED RIVER, N.J. 08731

Zoning Ordinance of the Borough of Tuckerton shall be appropriately amended pursuant to law.

- (10) All other requirements of the Municipal Land Use Law regarding adoption of development regulations shall be followed.
- (11) Upon adoption of an ordinance by the Borough of Tuckerton designating an historic landmark or an historic district, the designation list and map shall be incorporated into the Master Plan and Zoning Ordinance of the Borough as required by the Municipal Land Use Law. Designated properties shall also be noted as such on the records for those properties as maintained by the Planning and Zoning Offices, as well as the offices of the Construction Official, the Zoning Officer, the Borough Tax Assessor and the Borough Clerk.

§ 187-5 Public hearings.

- A. Representation of parties.** Any owner or owners and all persons having a legal and equitable interest in any property which has been proposed for designation, or is designated, as a local landmark, or for which an application for a permit or application for development has been made to the municipality, may appear in person or be represented by an authorized agent or attorney at any public hearing scheduled by the Tuckerton Historic Preservation Advisory Commission.
- B. Order of procedure.** The order of procedure at all public hearings of the Tuckerton Historic Preservation Advisory Commission shall be as follows:
 - (1) Opening of the hearing by the Chairperson;
 - (2) Incorporation in the record of the Notice of Hearing in accordance with the Open Public Meetings Act of the State of New Jersey;
 - (3) Statement by the Chairperson summarizing the items on the agenda for the meeting;
 - (4) Approval of the minutes of previous meetings;
 - (5) Review and approval of any resolutions memorializing decisions reached on applications at previous meetings;
 - (6) Applications that were heard previously by the Advisory Commission and carried to the next hearing date shall be heard under "old business;"
 - (7) Applications not previously heard by the Commission shall be heard under "new business."

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

(a) Upon calling the case of a new application, the applicant, or the authorized agent or attorney, shall indicate to the Commission who will be representing the applicant at the hearing and who will be offering testimony regarding that application.

(b) An opening statement will be made by the Chairperson or the staff of the Commission regarding the application, specifically what documents and evidence have been submitted to the Commission prior to the hearing date.

(c) An opening statement will be made by the owner, authorized agent or attorney representing the applicant, setting forth the overall intent of the proposed activities to be undertaken on the property in question.

(d) Following the opening statements, presentations will be made by the identified witnesses and evidence will be given in support of the proposed activities that directly relate to the property which is the subject of the hearing. Documents and other physical evidence that will be submitted to the Commission shall be appropriately designated by the Commission Secretary, using a consecutive numbering system.

(e) The opportunity to cross-examine witnesses shall be in the following order:

[1] Counsel to the Advisory Commission;

[2] Members of the Advisory Commission;

[3] Members of the Public attending the hearing.

(f) Following presentation in support of the application, statements, if any, of other interested persons, either for or against the proposed activities, will be heard by the Commission. Such statements shall be limited to such length of time as the Commission shall designate.

(g) Final disposition of any matter subject to public hearing before the Advisory Commission shall be in accordance with the applicable provisions contained within the Historic Preservation Ordinance of the Borough of Tuckerton. Copies of the said final determinations shall be distributed in conformity with the provisions of said ordinance. If the vote taken on a specific application results in a tie, the application shall be deemed denied.

(h) Following the presentation of the oral summation, the Advisory Commission shall enter into public deliberations regarding the testimony offered, evidence submitted, and any issues raised by the public, the Advisory Commission members or staff relating to the activities proposed to be

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

undertaken by the applicant. Based upon these deliberations, the Advisory Commission shall render a decision setting forth in full its reasons for approving or denying the application. In the case of approval, any conditions placed upon the approval shall be made as a part of the record. In either case, the Advisory Commission shall, at the following meeting, pass a resolution memorializing its decision and setting forth the testimony offered, evidence entered in the record, findings of fact, and the conclusions reached on the application.

(8) Following the conclusion of all new business to come before the Advisory Commission, it shall take up such other business as may require its attention, including but not limited to: new grant applications; existing grant application projects; seminars; consideration of ordinance changes; consideration of new structures for designation as local landmarks, etc.

(9) Following the discussion of such additional business as noted above, the Advisory Commission shall open the meeting to receive any comments or questions from the general public as may be in attendance at the meeting.

(10) Following the presentation to the Advisory Commission by any members of the public, the Chairperson shall declare, upon a motion duly made, that the meeting be adjourned.

- C. The Tuckerton Historic Preservation Advisory Commission may, in its discretion, impose reasonable time limits upon the presentation of evidence and statements. The Chairperson of the Commission, at his/her discretion, may alter the order of procedure as circumstances may require and warrant.
- D. All testimony offered by witnesses shall be given under oath or affirmation and said testimony may be given by question and answer method or, at the Chairperson's discretion, in statement form. Persons wishing merely to state a position for or against a proposed application shall be placed under oath or affirmation.
- E. Exhibits shall be marked for identification and shall be offered in an orderly fashion. They shall be made available for examination by any and all parties of interest. Leave to file post-hearing exhibits or information may be sought at the hearing, or thereafter in writing, which may be granted by the Chairperson. In the event leave to file post-hearing exhibits or information is granted, copies shall be served upon interested parties or representatives in person, or by United States mail, by certified mail, return receipt requested, together with a signed statement that this rule has been complied with, which shall be attached to or shall accompany such documents submitted.
- F. Hearings shall be conducted in such a manner as shall result in a just and lawful determination of the issues as promptly as circumstances shall permit. The Advisory

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

Commission shall make determinations as to the relevance and materiality of evidence. The Advisory Commission may require a preliminary statement of the nature of the evidence proposed to be elicited from any witness.

§ 187-6 Certificate of appropriateness.

A. Actions requiring a certificate of appropriateness. A certificate of appropriateness issued by the Historic Preservation Advisory Commission shall be required before a permit is issued for any of the following activities on the property of any landmark or within any historic district:

- (1) Demolition of an historic landmark or of any improvement.
- (2) Any major exterior renovation of an historic landmark or of any improvement.
- (3) Relocation of any historic landmark or of any improvement.
- (4) Any application for development pursuant the requirements of the New Jersey Land Use Law or any ordinances adopted pursuant thereto.
- (5) Any new construction of a principal or accessory structure.

B. Exceptions.

- (1) A certificate of appropriateness shall not be required for any repainting, repair or other maintenance not meeting the definition of major exterior renovation. Paint color and the preparation of a wooden structure for painting are outside the scope of this chapter.
- (2) A certificate of appropriateness shall not be required before a permit is issued by the Construction Official for changes to the interior of a structure.
- (3) A certificate of appropriateness shall not be required for any necessary temporary ramps for the convenience of any handicapped persons.

§ 187-7 Applications for certificate of appropriateness.

A. Application procedure. Application for a certificate of appropriateness shall be made on forms available from the Zoning Officer at the Borough. Completed applications shall be delivered to the Administrative Officer at Borough Hall.

B. Application information and supporting documents. Application for a certificate of appropriateness shall include the following:

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

(1) All forms completed by the applicant.

(2) The following exhibits:

(a) When the application is for new construction, the applicant shall provide an overall site plan layout, at a scale of one inch equals 30 feet scale, minimum, showing the location of all contiguous properties and elevations of the proposed new construction.

(b) When the application is for exterior changes to an existing structure, the applicant shall provide sufficient photographs and architectural or other drawings to adequately inform the Commission of the amount and extent of the changes proposed and to show those changes in the context of the structure as a whole.

(c) When the application is for restoration of a structure to an earlier historic appearance, the applicant shall provide historical documentation such as descriptions, historic photographs, or comparisons to other similar historic structures (to the extent that such information is reasonably available) to support the proposed restoration.

(d) Additionally, the applicant shall provide the Commission with such other photographs, diagrams, architectural or other drawings, specifications, documents, and materials which may assist the Commission in the review of the work for which application is being made.

(3) The Administrative Officer of the Borough shall determine if the information submitted with an application for a certificate of appropriateness constitutes a complete application.

C. Time frame of decision by Advisory Commission. The Historic Preservation Advisory Commission shall reach a decision on the application within 45 days after the Administrative Officer has declared an application to be complete; otherwise the application shall be deemed to have been approved. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Historic Preservation Advisory Commission. The Historic Preservation Advisory Commission may advise the applicant and make recommendations in regard to the appropriateness of proposed action and may grant approval upon such conditions as it deems appropriate within the intent and purpose of the chapter.

D. Rationale. Actions taken by the Historic Preservation Advisory Commission shall be memorialized at the meeting following approval or disapproval by the adoption of a formal resolution setting forth in detail all of the reasons for the approval or disapproval and setting forth any and all conditions imposed, if any, on the grant of approval. The applicant shall, within 10 days of the adoption of such a resolution of memorialization,

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

publish notice thereof in the Tuckerton Times in the same manner as notice of formal action by the Tuckerton Land Use Board is required for site plan approval, subdivision approvals and the like.

- E. Resolutions.** The Secretary of the Historic Preservation Advisory Commission shall immediately upon adoption forward a copy of the resolution to the applicant, the Construction Official, the Zoning Officer, the Borough Land Use Board, and the Borough Clerk.

§ 187-8 Standards of consideration.

In making its determinations and recommendations, the Historic Preservation Advisory Commission shall take into consideration specific standards, as set forth below.

A. Demolitions.

- (1)** In regard to an application to demolish an historic landmark or any improvement within an historic district, the following shall be considered:
 - (a)** Its historic, architectural, archaeological, and/or aesthetic significance.
 - (b)** Its use.
 - (c)** Its importance to the Borough and the extent to which its historical, architectural or archaeological value is such that its removal would be detrimental to the public interest.
 - (d)** The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty.
 - (e)** The structural soundness and integrity of the building and the economic feasibility of restoring or rehabilitating the structure so as to comply with the applicable building codes.
 - (f)** If it is within an historic district, the probable impact of its removal upon the ambience of the historic district.
- (2)** Upon the recommendation of the Historic Preservation Advisory Commission, taking into account the factors set forth in Subsection **A(1)(a)** through **(f)** above, the Construction Official may postpone the demolition of a landmark or improvement within or without an historic district for a period of 12 months. If the Historic

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

Preservation Advisory Commission recommends such postponement, it shall promptly initiate such actions as may lead to the preservation of the landmark or improvement.

- (3) The Historic Preservation Advisory Commission may at any time during such delay period approve a certificate of appropriateness and, at the end of such delay period, shall approve if it has not already done so a certificate of appropriateness. Upon the issuance of such certificate of appropriateness during the delay period or at the termination thereof, the Borough of Tuckerton may, within 60 days or such further period that the property owner may agree, relocate the structure and for a failure to relocate the structure during such period a demolition permit shall be forthwith issued by the Construction Official.
- (4) In the event of the imposition of the twelve-month delay as herein provided for, the applicant may appeal the imposition of such delay to the Land Use Board. Such appeal shall be accompanied by a certificate of an independent structural engineer detailing how and in what manner the structural integrity of the structure has been so compromised that it should be demolished. Within 30 days of the filing of such an independent certificate the Borough of Tuckerton shall have the right to have the building inspected by its own engineer at the Borough's sole cost and expense.

B. Removals out of the Borough. In regard to an application to move an historic landmark or any structure in an historic district to a location outside of the Borough, the Commission shall consider the following matters:

- (1) The historic loss to the site of the original location.
- (2) The compelling reasons for not retaining the landmark or structure at its present location.
- (3) The proximity of the proposed new location to the Borough, including the accessibility to the proposed new location to the Borough, including the accessibility to the residents of the Borough and other citizens.
- (4) The probability of significant damage to the landmark or structure itself as a result of the move.
- (5) The applicable matters set forth in § 187-8A of this chapter.

C. Removals within the Borough. In regard to an application to move an historic landmark or any structure in an historic district to a new location within the Borough, the Commission shall consider the following, in addition to the matters set forth in § 187-8B of this chapter:

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

(1) The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this chapter.

(2) If the proposed new location is within an historic district, the visual compatibility factors as set forth in § 187-8F of this chapter.

D. Visual compatibility. In regard to an application to move a landmark or structure into an Historic District, or to construct a new structure or add to or alter an existing structure within an Historic District, or a landmark, the visual compatibility of the proposed structure with the structures and surroundings to which it would be visually related shall be considered in terms of the visual compatibility factors as set forth in § 187-8F of this chapter.

E. Other considerations on applications for certificates of appropriateness. In regard to an application for approval pursuant to § 187-6 of this chapter, the following shall be considered:

(1) If an historic landmark or structure in an historic district is involved:

(a) The impact of the proposed change on its historic and architectural character.

(b) Its importance to the Borough and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest.

(c) The extent to which there would be involvement of textures and materials that could not be reproduced or could be reproduced only with great difficulty.

(2) The extent to which the proposed action would adversely affect the public's view of a landmark or structure within an Historic District from a public street.

F. Visual compatibility factors. The following factors shall be considered in determining the visual compatibility of a building, structure or appurtenance thereof with the buildings and places to which they are visually related and shall be known as "visual compatibility factors":

(1) The height of the proposed building being visually compatible with adjacent buildings.

(2) The relationship of the width of the building to the height of the front elevation being visually compatible with the buildings and places to which it is visually related.

(3) The relationship of the width of the windows to the height of the windows in a building being visually compatible with the building in which they are located and to all buildings on lots within 200 feet thereof. The relationship of solids to voids in the front

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

facade of a building shall be visually compatible with the buildings and places to which it is visually related.

- (4) The relationship of solids to voids in the front facade of a building being visually compatible with the buildings and places to which it is visually related.
- (5) The relationship of the building to the open space between it and the adjoining buildings being visually compatible with the buildings and places to which it is visually related.
- (6) The relationship of the entrance or entrances and the porch projections to the street being visually compatible with the buildings and places to which it is visually related.
- (7) The relationship of materials, texture and color of the facade and roof of a building being visually compatible with the predominate materials used in the buildings to which it is visually related.
- (8) The roof shapes of a building being visually compatible with the buildings to which it is visually related.
- (9) Appurtenances of a building such as walls and open-type fencing forming cohesive walls of enclosure along a street to the extent necessary to maintain compatibility of the building with the buildings and places to which it is visually related.
- (10) The size of a building and the mass of a building in relation to open spaces, the windows, door openings, porches and balconies being visually compatible with the buildings and places to which it is visually related.
- (11) A building being visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.
- (12) New buildings having the same relative placement on the lot as the older structures and the setback distance from the street being equal.
- (13) A structure's related exterior features such as lighting, fences, signs, sidewalks, driveways and parking areas shall be visually compatible with the features of those structures to which it is visually related.

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

G. Financial assistance. If the cost of compliance with the requirements of this section increases the cost of the work to be done, the applicant may apply to the Borough of Tuckerton for financial assistance for such excess costs. Such financial assistance may be in the form of a grant, tax relief, or a no- or low-interest loan for all or part of such excess costs, on such terms as the Borough of Tuckerton may hereafter determine and adopt, and

depending upon whatever funds the Borough of Tuckerton hereafter may make available for such a purpose.

§ 187-9 Effect of a certificate of appropriateness approval; denial, appeal.

A. Effect. If a certificate of appropriateness has been issued for an application that requires approval of the Land Use Board, the certificate of appropriateness shall be a positive recommendation to the Land Use Board as to the historic preservation aspects of the matter.

B. Appeal and right of judicial review. Denial of a certificate of appropriateness where one is sought to be issued to the Building Department or Zoning Officer may be appealed to the Land Use Board on the record made before the Historic Preservation Advisory Commission in the same manner as an appeal may be made from an adverse determination of the Zoning Officer as such appeal is provided for by ordinance and statute. Appropriate application and escrow fees apply

C. Posting. The owner shall post the certificate of appropriateness in a conspicuous spot on the exterior of the designated property visible to the public during the entire process of work.

D. Inspection. When a certificate of appropriateness has been issued, the Construction Official or his/her appointee shall, from time to time, inspect the work approved by such certificate and shall regularly report to the Advisory Commission the results of such inspections, listing all work inspected and reporting any work not in accordance with such certificate.

E. Period of validity. A certificate of appropriateness shall be valid for a period of two years from the date of issue unless reasonable extensions are requested by the applicant or the Advisory Commission.

F. Emergency procedures. When an historic landmark or an historic district resource requires immediate repair to preserve its continued habitability and/or health and safety of its occupants or others, emergency repairs may be performed in accordance with applicable construction codes immediately upon approval of the Construction Official, who shall certify that a bona fide emergency exists, without first obtaining a certificate of appropriateness from the Advisory Commission. Where feasible, temporary measures to prevent further damage shall be used, provided these measures are reversible without damage to the building or structure. The property owner shall make application for a certificate of appropriateness from the Advisory Commission within 30 days of the commencement of emergency repairs.

G. Certificates of appropriateness for government actions:

- (1) It is recognized that the intent and purposes of this chapter would not be fully served if the municipality and other governmental agencies were to control the actions of others but fail to apply similar constraints to itself. The Borough of Tuckerton, when it plans to undertake any work on any municipally-owned historic landmark or on any

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

municipally-owned property in an historic district, may submit such plans to the Historic Preservation Advisory Commission.

- (2) In circumstances where the Borough cannot require compliance, as in certain cases involving the county, the voluntary cooperation of such agencies in seeking a certificate of appropriateness and hereby authorizes the Advisory Commission to consider such requests and applications. This does not relieve the property owner from complying with the applicable state and federal regulations regarding historic preservation.

§ 187-10 Enforcement and penalties.

A. Enforcement. It shall be the duty of all municipal officials reviewing all permit applications involving real property or improvements thereon to determine whether such application involves any activity which should also be the subject of an application for a certificate of appropriateness. If it should, the official shall inform both the Construction Official and the applicant, as well as the Historic Preservation Commission.

B. Penalties.

- (1) Any person who shall undertake any activity which requires a certificate of appropriateness without having first obtained such certificate shall be deemed to be in violation of this chapter.
- (2) Upon learning of the violation, the Zoning Officer shall serve upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by restoring the landmark or improvement to its status quo ante. Service shall be by personal service and sent by certified mail, return receipt requested, to the owner at his/her last known address, as it appears on the Borough tax rolls. A copy of this notice shall be posted on the site of violation.
- (3) In the event that the violation is not abated within the ten-day period following mailing and/or posting on the site, the Zoning Officer shall cause a summons and complaint, returnable in the Tuckerton Municipal Court, to be issued and served pursuant to law, charging violation of this chapter. Each separate day the violation exists shall be deemed to be a new separate violation of this chapter.
- (4) Any person violating any of the provisions of this chapter shall be subject to penalties of \$250 minimum fine and possible prison time. Each day that a violation of this chapter continues shall be a separate chargeable offense. Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not less than \$100.00 and not more than \$1,000.00 or by imprisonment for a term not to exceed 90 days, or both such fine and imprisonment, in the discretion of the municipal court judge. The continuation of such

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

- (5) In the event that any action which would permanently and/or adversely change the landmark or historic district, such as demolition or removal, is about to occur without a certificate of appropriateness having been issued, the Borough of Tuckerton may apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction of any landmark.

§ 187-11 Preventive maintenance.

A. Recognizing the need for preventive maintenance to ensure the continued useful life of landmarks and structures in the Historic District, the Council of the Borough of Tuckerton hereby declares that code enforcement in relation to landmarks and structures in historic districts is a high Borough priority.

B. In the event that any landmark or improvement in an historic district suffers deterioration to the point where, in the opinion of the Construction Official of the Borough of Tuckerton, the deterioration jeopardizes the continuing existence of the landmark or improvement, the Construction Official of the Borough of Tuckerton is hereby authorized to file an application with the Historic Preservation Advisory Commission, upon notice to the owner, to compel the owner to appear at the next meeting of the Commission to show cause why corrective action and repairs as recommended by the Commission should not be undertaken. Upon resolution duly adopted by that Commission the owner shall make the reasonable repairs requested by the Commission and, for a failure to do so, the Construction Code Official shall recommend to the Council of the Borough of Tuckerton that an action be commenced in the Superior Court of New Jersey Chancery Division seeking a mandatory injunction to compel the owner to take appropriate remedial action. Decision as to whether or not to commence such Chancery Division action shall be in the sole discretion of the Council of the Borough of Tuckerton.

§ 187-12 Designation by Advisory Commission of landmarks outside of the established Historic District.

The Advisory Commission shall from time to time inventory other individual properties in the Borough of Tuckerton which may meet the criteria established for Historic District resources and historic landmarks. Upon the inventory of such structures, a list thereof shall be forwarded to the Council of the Borough of Tuckerton who shall, upon due consideration, determine whether or not such structures and landmarks and historic sites should be included as separate historic preservation districts and, if the Council shall so determine, appropriate ordinance enactment may be made by the Council.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting of the Borough Council of the Borough of Tuckerton held on the ____ day of _____, 2018, and will be considered for second reading and final passage at a meeting of the Borough Council to be held on the ____ day of _____, 2018, at 7:00 p.m. at the Borough Hall located at 140 East Main Street, Tuckerton, New Jersey, at which time and place, any persons desiring to be heard upon the same will be given the opportunity to be so heard.

JENNY GLEGHORN, RMC
Borough Clerk, Borough of Tuckerton

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

ORDINANCE NO. _____-2018

ORDINANCE OF THE BOROUGH OF TUCKERTON, COUNTY OF OCEAN, STATE OF NEW JERSEY, REPEALING ARTICLE II OF CHAPTER 45 AND CHAPTER 187 OF THE BOROUGH CODE OF THE BOROUGH OF TUCKERTON ENTITLED "LANDMARKS PRESERVATION" AND ESTABLISHING NEW CHAPTER 187 ENTITLED "HISTORIC PRESERVATION ADVISORY COMMISSION"

The Borough of Tuckerton introduced the above ordinance at its _____, 2018 meeting. The Ordinance repeals Article II of Chapter 45 and Chapter 187 of the Borough Code of the Borough of Tuckerton entitled "Landmarks Preservation" and establishing new Chapter 187 entitled "Historic Preservation Advisory Commission. The Ordinance will be considered on second and final reading at the _____, 2018 meeting of the governing body. All meetings are held at the Borough Hall located at 140 East Main St., Tuckerton, New Jersey, commencing at 7:00 p.m. Copies of all Ordinances are available at no cost at the Borough Clerk's Office located at 420 East Main St., Tuckerton, New Jersey, Monday through Friday from 9:00 a.m. to 4:00 p.m.

JENNY GLEGHORN, RMC
Borough Clerk
Borough of Tuckerton

**DASTI, MURPHY
McGUCKIN, ULAKY,
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731